

2011

**Tenth Circuit
Bankruptcy Appellate
Panel**

**Blaine F. Bates
Clerk of Court**

ECF PROCEDURES AND GUIDANCE

Effective November 1, 2010

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ECF Procedures and Guidance

ECF – 1. SCOPE OF ELECTRONIC FILING

(A) MANDATORY ELECTRONIC FILING

Attorneys filing documents with the Court effective May 1, 2010, must file all documents, other than sealed documents, electronically using the Court’s Appellate Electronic Case Files system (“ECF”).

(B) EXEMPT FILERS

Pro se litigants who are not attorneys are exempt from the mandatory ECF requirement at this time (hereafter, filers not subject to mandatory ECF are referred to as “exempt filers”); however, they are encouraged to file electronically. The Court encourages electronic filing because it provides immediate notice of entry, immediate service to parties, and receipt of filing for all documents transmitted. The Clerk’s Office is available to assist filers with registration and electronic filing. Exempt filers who choose not to file electronically may conventionally file documents with the Court (i.e., by mail, hand delivery, facsimile or e-mail). Pleadings filed by e-mail must be in native Portable Document Format (“PDF”) or text-searchable format. Scanned image PDF documents are not acceptable. Attachments to pleadings may be submitted in scanned PDF format only if native format is not available.

An attorney may seek exemption from mandatory filing only in unusual situations by completing the Appellate ECF Exemption Request Form available on the Court’s website for each active case in which the exemption is sought. The Court will approve an exemption request only under extremely limited circumstances that are beyond the attorney’s control. If an exempt filer later registers for ECF, that registration will abrogate the exemption for all cases.

ECF – 2. CONSEQUENCES OF ELECTRONIC FILING

(A) FILING

Electronic transmission of a document to ECF in compliance with these procedures, together with the transmission of a Notice of Docket Activity (“NDA”) from the Court, constitutes filing of the document under the Federal Rules of Bankruptcy Procedure and the local rules of this Court.

(B) READABILITY AND COMPLETENESS

Before electronically filing a document to ECF, the filer must verify its readability and completeness. When a document has been electronically filed to ECF, the official record is the electronic document stored by the Court, and the filer is bound by the document as filed.

(C) NO PAPER COPY REQUIRED

An electronically filed document is considered the original. No additional paper copies are required.

ECF – 3. REGISTRATION FOR ELECTRONIC FILING

To obtain a login and password for using ECF, a filer must register by completing the Appellate ECF Filer Registration process managed by PACER. Registration for Appellate ECF is separate from and in addition to registering for PACER. The registration process is complete when an e-mail approving registration is sent to the filer by the Court (hereafter, a filer who has completed ECF registration is referred to as an “e-filer”). Registration for ECF constitutes consent to electronic service. Before electronically filing a document to ECF, e-filers should review the video tutorials and ECF User’s Manual available on the Court’s website.

ECF – 4. PASSWORDS.

E-filers are responsible for the security of their passwords. Passwords may be used only by persons specifically authorized to file documents in the e-filer’s name. In the event a password is compromised, an e-filer should immediately change the password with the PACER Service Center using the Appellate ECF Filer Account Update option.

ECF – 5. REVOKING ELECTRONIC FILING REGISTRATION

The Court may revoke an e-filer’s registration for good cause.

ECF – 6. RESPONSIBILITY FOR REDACTION

The responsibility for redacting personal data identifiers from electronically filed documents rests solely with the e-filer. The Court will not review documents to determine whether necessary redaction has been undertaken or redact such information from documents. Nor will the Court seal documents containing personal data identifiers without an order obtained by a properly filed motion to seal documents. 10th Cir. BAP L.R. 8008-5 and L.R. 8009-3(k).

ECF – 7. DEADLINES

(A) SYSTEM AVAILABILITY

Electronic filing is permitted any time other than when precluded by system maintenance. Electronic filings will be processed by the Court during the Court's business hours.

(B) TIMELINESS

A document electronically filed to ECF is deemed filed at the date and time stated on the NDA from the Court. Unless otherwise directed by the Court, a document is timely filed if the time stamp on the NDA shows the document was filed by 11:59 p.m. Mountain Time of the deadline date.

(C) TECHNICAL FAILURE

If technical failure prevents timely filing of any document, the e-filer shall preserve documentation of the failure and seek appropriate relief from the Court.

ECF – 8. ELECTRONIC FILING ERRORS

Once the electronic filing transmission is complete, it may not be modified. E-filers who note any errors following transmission of any document must forward the NDA along with a brief description of the filing error to 10th_Circuit_BAP@ca10.uscourts.gov.

ECF – 9. SEALED DOCUMENTS

Sealed documents must be filed with the Court in paper format only. In order to file documents under seal, a filer must first file a motion and obtain an order from the Court. A motion to place documents under seal may be electronically filed, but the motion itself will not be sealed. If the motion is granted, the Court will issue further directions for filing the documents to be sealed. See 10th Cir. BAP L.R. 8009-3(k).

ECF – 10. EMERGENCY MOTIONS

Pursuant to Local Rule 8011-4(a), before electronically filing an emergency motion the movant must call the Clerk's Office in order to give as much advance notice as possible. If the motion is electronically filed when the Court is closed, the movant must call the Clerk's Office as soon as it is open to receive further guidance.

ECF – 11. SERVICE

(A) PROOF OF SERVICE

Pursuant to Federal Rule of Bankruptcy Procedure 8008(d), all documents presented for filing must include proof of service containing the names of the persons served and the date and manner of service. A sample certificate of service is available on the Court’s website.

(B) METHOD OF SERVICE

When a document is electronically filed, ECF will automatically notify other e-filers of the transmission; no service of paper copies upon other e-filers is necessary. However, e-filers must serve exempt filers in accordance with Federal Rule of Bankruptcy Procedure 8008. 10th Cir. BAP L.R. 8008-1(c). Exempt filers must serve documents in accordance with Federal Rule of Bankruptcy Procedure 8008. A Service Method Report is available from the Reports menu option of ECF. The e-mail addresses of e-filers will also display on the electronic docket.

ECF – 12. DOCUMENT REQUIREMENTS

(A) FORMAT

All documents must be electronically filed in PDF. All documents electronically filed with the Court must be generated by publishing to PDF from the original word processing file to permit the electronic version of the document to be searched and copied. PDF images created by scanning paper documents are prohibited; however, exhibits or addenda submitted as attachments to a document may be scanned and attached if the electronic filer does not possess a word processing file version of the attachment.

(B) FILE SIZE

The file size for a single electronically filed document is limited to ten megabytes (“MB”). Documents that exceed 10MB must be divided into subparts and attached as multiple documents within the same electronic filing transaction. The description of each attached part must identify the page numbers within the document (e.g., Appellant’s Appendix, pp. 51 - 100).

ECF – 13. SIGNATURES

As stated in the “Terms of Use” by the PACER Service Center, use of an electronic filer’s login and password to electronically file a document constitutes the filer’s signature on a document.

ECF – 14. HYPERLINKS

(A) HYPERLINKS PERMITTED

Electronically filed documents may contain the following types of hyperlinks:

- (1) Hyperlinks to other portions of the same document or to other documents filed on appeal;
- (2) Hyperlinks to documents filed in the lower court that have been designated as part of the record on appeal (but the documents must still be included in the appendix as required by Federal Rule of Bankruptcy Procedure 8009(b) and Local Rule 8009-3); and
- (3) Hyperlinks to statutes, rules, regulations, and opinions.

(B) HYPERLINKS AS CITATIONS

Hyperlinks do not replace citations to the appendix, record, or legal authority. Documents must contain standard citations in support of statements of fact or points of law, in addition to any hyperlink. Hyperlinks are simply mechanisms for accessing material cited in a filed document and are not considered part of the appellate record. The Court accepts no responsibility for the availability or functionality of any hyperlink and does not endorse any organization, product, or content at any hyperlinked site.

ECF – 15. ADDRESS, TELEPHONE NUMBER, AND ECF E-MAIL ADDRESS CHANGES

Counsel and pro se parties must immediately file with the Court a statement of any change in name, address, telephone and facsimile numbers, or ECF e-mail address. E-filers must also immediately update their PACER Service Center Appellate ECF Account with any changes. 10th Cir. BAP L.R. 8018-4(a).

ECF – 16. ENTRIES OF APPEARANCE

(A) REQUIRED INFORMATION

Pursuant to Local Rule 8001-4(a), an Entry of Appearance (“Appearance”) must contain the following information: filer’s name, address, telephone and facsimile numbers, and ECF e-mail address.

(B) MULTIPLE ATTORNEYS

Pursuant to Local Rule 8001-4(a), attorneys whose names subsequently appear on filed papers must also file an Appearance. However, a single Appearance may be electronically filed by one attorney on behalf of multiple attorneys provided the document contains all required information for each attorney listed.

(C) NO APPEARANCE FILED

Any attorney who fails to electronically file an Appearance may be removed from the case for purposes of service by the Court without further notice.

(D) ATTORNEY OF RECORD

Any Appearance electronically filed by an attorney who is not an existing attorney of record will be reviewed by the Court. If approved, the attorney will be added to the appeal and may begin electronically filing other documents.

ECF – 17. NOTICE FOR CASES OF INTEREST

Any registered filer may request notice of filings made in any appeal using Notice for Cases of Interest available from the Utilities menu option of ECF. Once a filer requests notice in any appeal, the filer will receive e-mail notification for all public entries. Note that the “free look” policy applies only to parties to an appeal; therefore, standard PACER Service Center fees will apply when viewing the docket or any documents.